FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
NAGPUR BENCH, NAGPUR

First Appeal No. 378/1999

Appeal	District :
Application No.	of 200
Writ petition	

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

Mr. A.S. Fulzele, A. G.P. for the appellants.

CORAM : Smt. Vasanti A. Naik, J.
DATED : 21st June, 2007.

Heard Shri Fulzele, the learned A.G.P. for the appellants.

By this first appeal, the appellants have challenged the judgment and Award passed by the Civil Judge, Sr. Dn., Nagpur, on 12th January, 1999, whereby the compensation payable to the respondent was enhanced.

The land of the respondent bearing Kh. No. 489/2 admeasuring 1.24 hectare was acquired by the State Government for re-settlement of flood affected persons. The Land Acquisition Officer passed the Award on 20/6/1992 and granted compensation to the tune of Rs. 1,39,728/- to the respondent-claimant. Since the adjoining land was granted much more compensation and since, according to the respondent, the market value of the land was much more, he filed a reference application before the Collector, Nagpur. The matter was registered as Land Acquisition Case No.

135/1993. The respondent claimed compensation @ Rs. 1,75,000/- per hectare. The reference Court, however, granted compensation @ Rs. 80,000/- per hectare. The State has challenged the Award dated 12/1/1999 whereby, the compensation has been granted to the respondent at the rate of Rs. 80,000/- per hectare.

The learned Assistant Government Pleader submitted that the reference Court was not justified in enhancing the compensation as the Land Acquisition Officer has considered all the relevant factors to grant compensation to the respondent @ Rs. 65,000/- per hectare. According to the learned Assistant Government Pleader, the compensation could not have been enhanced as there was no evidence to prove that the market value of the property was Rs. 80,000/- per hectare.

I have perused the judgment passed by the reference Court. The claimant had examined himself. He had produced certain documentary evidence on record in the form of sale deeds to show that the market value of the property was Rs. 1 lakh per hectare at the time of issuance of the notifications. He further produced a copy of Award passed by the reference Court in respect of the adjoining land at exh.23. Perusal of the Award at Exh.23 shows that the reference Court had granted compensation @ Rs. 1 lakh per hectare for the acquisition of the adjoining lands which where

owned by the brother of the respondent. The reference Court had considered the 7/12 extract which shows that the land of the respondent was irrigated and he was getting crops like cotton, jawar, wheat, groundnuts and vegetables from the agricultural land. The reference Court heavily relied on the Award which was passed in respect of the adjoining lands belonging to the brother of the respondent, for granting compensation to the tune of Rs.80,000/- per hectare. The reference Court also considered the admitted position that the land was adjoining to the Gaothan and was situated on the State-Highway. The reference Court had, in fact, wrongly discarded the two sale deeds which were produced by the respondent on record to show that the land was valued at Rs. 1 lakh per hectare. In the facts and circumstances of the case, therefore, it cannot be said that the Award of compensation @ Rs. 80,000/- per hectare, is not just and reasonable.

For the aforesaid reasons, the first appeal fails and is dismissed with no order as to costs.

JUDGE

RMP